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October 20, 1997 FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**REPLY COMMENTS OF ROBERT KIMBALL**

In the Matter of Joint Voluntary Proposal for Video Programming Rating System of National Association of Broadcasters, National Cable Television Association and Motion Picture Association of America --- CS Docket No. 97-55

For the past six years I have worked as an attorney for the Federal Communications Commission, first in the Common Carrier Bureau then in the Office of Engineering and Technology. I have had no role as an FCC attorney in matters relevant to this docket. During my time at the FCC I have worked only on matters involving the regulation of telephone companies.¹

However, I am in a position to testify to the accuracy of the Family Research Council's (FRC) summary, in its reply comments in this docket, of the presentation "Images of Gays and Lesbians in the Media" (IGLM). I attended that presentation here at the FCC. The presentation took place at the invitation of the FCC in the Commission meeting room. It was moderated by Barret Brick, a noted homosexual activist and FCC attorney working for the Bureau handling this docket. Until the question period after their presentations, the presenters were clearly under the impression that all of the FCC staffers attending were homosexuals sympathetic to their cause. In their presentation, they explicitly lobbied the FCC staff to help prevent any true content-based rating system for television programs from being accepted by the Commission in order that parents would not be advised of the content of programs presenting "positive" images of homosexuality and homosexual "role models" for children. Pamphlets soliciting money for their organization were also distributed at the presentation.

I believe this may violate Commission ex parte and solicitation rules for the reasons stated by FRC in its reply comments (FRC at note 10) and also because the presentation occurred just days before the rulemaking adopted in the children's educational television proceeding (MM Docket No. 93-48, FCC 96-335, released August 8, 1996) which discussed issues of parental notification through television program ratings of television program content relevant to the social and emotional development of children. I urge the Commission to make a transcript of the IGLM presentation part of the record in this proceeding.

I also believe that the proposed TV rating system presently under consideration by the Commission in this docket is inadequate and would fail to inform parents of sexual and other indecent material in television programs they may not want their children to watch.

FRC's reply comments correctly state that parents object to having their children watch depictions of homosexuals or homosexual behavior. As the FRC noted, it is the kind, as well as the explicitness, of sexuality portrayed in television programs that parents may find objectionable. Even subtle suggestions of sexual perversion are likely to be much more abhorrent to many parents than strong heterosexual content alone.

The law the Commission is implementing here was intended to address parents concerns about

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249

the suitability for children of the sexual content of television programs. Clearly program content suggestive of sexual perversion falls within the scope of potentially objectionable sexual content referred to in this law.

The definition of "sexual perversion" in Webster's Third New International Dictionary (unabridged) reads in its entirety "*n*: activity (as sodomy, fellatio, bestiality) leading to complete sexual gratification that is preferred by an adult to heterosexual coitus." This definition does not reference any scientific, religious, political or sociological belief, theory or conceptual rule for the application of the term "sexual perversion." It simply describes correct general examples of the common use of the phrase "sexual perversion" by native English speakers. Standard dictionary definitions are generally designed to reflect such usage and nothing more. In the case of clearly pejorative terms like "sexual perversion," they reflect emotional usage as well, including attitudes relevant to obscenity and indecency.

The definition quoted above will reflect the common attitudes of most adult English speakers regardless of their religious or political beliefs. As a matter of language, homosexuality is paradigmatical perversion, and a very large number of American parents, regardless of any belief system they may adhere to, do not want their children to watch programs that suggest sexual perversion, especially if that perversion is treated as acceptable behavior.

An increasing number of television programs that might otherwise be unobjectionable to parents feature "positive" portrayals of homosexuals (see FRC reply comments at note 8). Because it still fails to consider the kind of sexuality portrayed in a program, the revised rating system now under consideration is inadequate and already outmoded even before it is fully implemented. Recent and forthcoming episodes of the program "Ellen" involving developments not included in the FRC's enumeration in note 8, present a clear example of this fact.

Ellen DeGeneris, the actress playing the lesbian lead character in the series and a lesbian herself, acknowledged just last week that the aim of the series was to let "kids know there's nothing wrong with being gay." (See Newsday (AP) Oct. 9, 1997, page 14.) That Miss. DeGeneris was referring to all children including preteens is shown by the fact that her comments were part of objections she was making to the TV-14 rating the program received. That a popular television program should now have as its explicit purpose an attempt to make perversion acceptable to young children will be appalling to an enormous number of parents. That the show's producers are not advising parents of this fact in their present ratings -- on only one program have they even advised parents that the program might not be suitable for preteens, a notice they may rescind on future episodes if Ms. DeGeneris has her way (Id.) -- would likely horrify most hardworking parents if they had the time to follow such developments.

A rating system that fails to adequately and consistently consider whether programs contain suggestions of sexual perversion frustrates the purpose of the law the Commission is implementing. Therefore, the Commission should reject the proposed rating system and insist that any acceptable rating system inform parents of the content of programs that portray homosexuality or other perversion so that parents may make an informed decision about whether to allow their children to watch those programs. In the alternative, I would urge the Commission

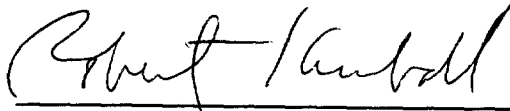
to approve the proposed rating system only if there is agreement with the industry that programs portraying homosexuality or other perversions will consistently receive a rating of TV-MA.

Finally, I wish to state my objections to the Commission's failure to respond to the FRC's modest and reasonable request that a transcript of the IGLM presentation be made a part of the record in this proceeding before all comments and response comment periods closed. Using FCC facilities, at the invitation of a homosexual activist attorney employed by the FCC in the bureau handling the present docket, the IGLM presenters lobbied FCC staff to use their influence to promote a rating system that would conceal from parents the nature of television programs targeting their children with positive images of sexual perversion. By refusing to make a transcript of the presentation public in time for a public response in this proceeding, Chairman Hundt and the present Commissioners have chosen to cooperate in that effort at concealment.²

1. I am submitting these reply comments as a private citizen. I know of no bar in FCC regulations or other law to my submission of comments in the present proceeding. I have notified the Office of General Council at the FCC of my intention to submit these comments and asked if there was any objection to my submitting them. I have received no response.

2. It is also ironic that the administration that appointed Chairman Hundt and the present Commissioners has begun praising programs that target children with sexual perversion for being "more open." (See, e.g., Vice President Gore's October 16, 1997 speech to the Hollywood Radio and Television Society.)

Submitted to the Secretary, Federal Communications Commission, October 20, 1997 by



Robert Kimball